IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No. 1539 of 2007
Date of Decision: 17.8.2007

Hardev Singh ...Appellant

Versus

Jagroop Singh and others ...Respondents

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: Shri Karamjit Verma, Advocate, for the appellant.

HEMANT GUPTA, J.

Plaintiff No. 1-Hardev Singh is in second appeal aggrieved against the judgment and decree passed by the Courts below, whereby the suit for declaration that the plaintiffs are owner of the suit land measuring 2 bighas 1 biswa having exchanged the same with the defendants and for a decree of permanent injunction was dismissed.

It is the case of the plaintiff that about 20 years prior to the filing of the suit, the parties exchanged their lands. The plaintiffs spent thousands of rupees to make the land cultivable. On behalf of the defendant, it was pointed out that there was no exchange of land and in fact, the defendant has filed a suit for injunction against the father of the plaintiffs. In the said suit the father of the present plaintiffs has raised a plea of exchange, which was negatived and the suit was decreed on 10.11.1999 (Exhibit D.6).

Both the Courts have returned a finding that the plaintiffs have not been able to prove the exchange. It has been found by the

learned first Appellate Court that PW2 Hardev Singh one of the plaintiffs, during cross-examination on 1.5.2001 admitted that the alleged oral exchange took place about 22/23 years back. He deposed that his brother Devinder Singh was 35 years of age when the statements were recorded. It was thus found that Devinder Singh was hardly 12 years of age at the time of exchange, which is not believable. The Court has further relied upon the judgment (Exhibit D.6) dated 10.11.1999, whereby the suit filed by the defendant against the father of the plaintiffs was decreed, whereby plea of exchange raised by the father of the plaintiffs, was negatived. Since the plea of exchange remains unsubstantiated, the suit has rightly been dismissed.

Consequently, I do not find any patent illegality or irregularity in the findings recorded by the Courts below, which may give rise to any substantial question of law in the present appeal.

Hence, the present appeal is dismissed.

17-08-2007 (HEMANT GUPTA)
ds JUDGE